

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1004**

State of Minnesota,
Respondent,

vs.

Torrence Lavelle Johnson, Sr.,
Appellant.

**Filed May 30, 2023
Affirmed
Frisch, Judge**

Dakota County District Court
File No. 19HA-CR-21-1752

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Kathryn M. Keena, Dakota County Attorney, Heather Pipenhagen, Assistant County Attorney, Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Eva F. Wailes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Frisch, Judge; and Florey, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

FRISCH, Judge

On appeal from a conviction for contributing to a minor being a runaway, appellant argues that the evidence presented at trial was insufficient to establish his criminal intent. Because the circumstances proved lead only to a conclusion consistent with appellant's guilt, we affirm.

FACTS

Respondent State of Minnesota charged appellant Torrence Lavelle Johnson, Sr. with one count of causing or contributing to a minor being a runaway in violation of Minn. Stat. § 609.26, subd. 1(8) (2020). The following facts were elicited at a bench trial.

Early in the morning on July 15, 2021, T.G. (mother) and Z.M. (child) had a disagreement regarding child accompanying her boyfriend on a trip to Chicago to visit boyfriend's family. Mother refused to give child permission to go on the trip and child fled mother's home. Mother called police, reported child as a runaway, and went to Johnson's home. Mother believed child was at Johnson's home because child was dating Johnson's son and spent a lot of time there. Mother had told Johnson the previous night that child could not be at his home and that child could not accompany Johnson's son to Chicago. She also told Johnson that she would report him to the police if he took child to the airport.

After receiving mother's report that child was a runaway, police officers visited Johnson at his home. They informed Johnson that child was a runaway and that Johnson could be charged with a crime if he assisted in hiding child from mother. Johnson asserted

that child was not at his home but assured the officers that he would contact them if child arrived there later.

Child arrived at Johnson's home at around 3:00 or 4:00 p.m. that day. Johnson did not notify police. At around 7:00 p.m., Johnson took his son and child to the airport despite "clearly" understanding that mother did not want child to go there. Johnson claimed that he planned to bring child to her grandmother's home after allowing child to see son off at the airport. Johnson believed that child had "ran away" and understood that her backpack contained "runaway clothes." Johnson acknowledged that the police had told him that child was a runaway, that it was a crime to harbor her, and that he knew what that meant.

When Johnson, child, and son arrived at the airport, they entered the ticket line to check in. Airport security intercepted the group prior to child or son boarding the flight after being informed by the police that child was a runaway and would potentially try to board a flight to Chicago that evening.

The district court found Johnson guilty of contributing to a child being a runaway. Johnson appeals.

DECISION

Johnson challenges the sufficiency of the evidence for his conviction of intentionally contributing to a child being a runaway, specifically challenging the intent element of the offense. The statute provides, "Whoever intentionally . . . causes or contributes to a child being a runaway . . . and is at least 18 years old and more than 24 months older than the child" is guilty of a felony. Minn. Stat. § 609.26, subd. 1(8). Minnesota Statutes section 609.26, subdivision 1(8), references Minnesota Statutes

section 260C.007, subdivision 28 (2020), which defines “[r]unaway” as “an unmarried child under the age of 18 years who is *absent from the home* of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.” (Emphasis added.)

Johnson argues that the circumstances proved are consistent with the reasonable hypothesis that he did not know that child was a runaway or what it meant to be a “runaway” or “harbor” a runaway, and he therefore could not have the requisite intent to support his conviction. “[I]ntent is a subjective state of mind usually established only by reasonable inference from surrounding circumstances.” *State v. Slaughter*, 691 N.W.2d 70, 77 (Minn. 2005) (quotation omitted). We therefore apply our circumstantial-evidence standard of review.

We conduct a two-part analysis when reviewing the sufficiency of circumstantial evidence. *State v. Andersen*, 784 N.W.2d 320, 329-30 (Minn. 2010). First, we “identify the circumstances proved,” deferring to the fact-finder’s credibility determinations. *Id.* at 329 (quotation omitted). Second, we consider whether the circumstances proved are consistent with guilt and inconsistent with a rational hypothesis other than guilt. *Id.* at 329-30. “Circumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted). In this second step, no deference is given to the verdict. *See Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017).

The following circumstances were proved at trial. As of July 2021, child had dated Johnson's son for over one year. Mother believed that child intended to travel to Chicago with Johnson's son on or about July 15, 2021. On July 14, mother told Johnson that child was not permitted to go to Chicago and child was not permitted to be at Johnson's house. On July 15, mother reported child as a runaway. Mother attempted to locate child at Johnson's residence but was unsuccessful. At 8:13 a.m., police officers spoke to Johnson at his residence, and Johnson told the officers that child was not at his residence. The officers told Johnson that child was a runaway and needed to be returned to her mother, and Johnson indicated he understood. The officers warned Johnson that he could be charged for "harboring" a runaway if child was with him or if he did not inform mother or the police if he located child. Later that day, at around 4:00 p.m., child arrived at Johnson's residence. Child remained at Johnson's residence until around 7:00 p.m. when Johnson drove child and son to the airport. Johnson did not inform police or mother that he had located child or that he was driving her to the airport. Johnson accompanied both child and son at the ticket counter at the airport.

The district court found that Johnson's testimony was not credible, including his testimony that he was only dropping son off at the airport, not child. The district court found that mother and the officers provided credible testimony, and child's testimony was less credible than the testimony from mother or the officers.

The circumstances proved are inconsistent with any hypothesis other than guilt. Johnson knew child was a runaway but failed to return child home. He allowed her to stay at his residence for several hours, took her to the airport, and accompanied her to the ticket

counter with his son before a flight to Chicago.¹ Despite his knowledge that child was a runaway and being told to return her home if he located her, Johnson took no steps to do so. Instead, Johnson enabled her to remain away from home. His knowledge of child's status as a runaway combined with his affirmative action once he located her establish his intent to contribute to child remaining a runaway and is inconsistent with any hypothesis other than guilt.

Affirmed.

¹ Johnson argues that he intended to take child to grandmother's house. We note that the district court did not credit Johnson's testimony. But even if the district court did believe Johnson's testimony such that it became a circumstance proved, that circumstance does not support Johnson's innocence because by taking child to grandmother's house, Johnson was not returning the child—who he knew to be a runaway—home, which is also a violation of the statute.